

FILED

SEP 10 2013

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

WARREN WAR CLUB,

Plaintiff,

vs.

MIKE FERRITER, Director, Dept. of Corrections MT; ELIZABETH RANTZ, MD, Medical Director for Dept. of Corrections; and FRANK RAISER, Contract Surgeon Dept. of Corrections,

Defendants.

CV 12-00093-H-DLC-RKS

ORDER

United States Magistrate Judge Keith Strong entered Findings and Recommendation on July 2, 2013, and recommended dismissing Plaintiff Warren War Club's second amended complaint with prejudice for failure to state a claim for relief against any of the named Defendants. Plaintiff did not timely object to the Findings and Recommendations, and so has waived the right to *de novo* review

of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

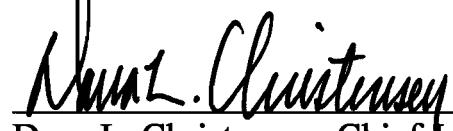
War Club filed his second amended complaint after being granted leave by Judge Christensen in his Order of May 22, 2013. Judge Strong found that the second amended complaint failed to state a federal claim for relief. Further, Judge Strong concluded that War Club has been given three (3) opportunities to amend defects in his original complaint and failed to do so. After a review of Judge Strong’s Findings and Recommendation, I find no clear error. Accordingly,

IT IS HEREBY ORDERED that Judge Strong’s Findings and Recommendation (doc. 18) are adopted in full. This matter is **DISMISSED WITH PREJUDICE**.

The Clerk of Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that the docket shall reflect that the Court certifies pursuant to Fed.R.App.P. 24(a)(3)(A) that any appeal of this decision would not be taken in good faith. The docket shall also reflect this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g).

Dated this 10th day of September 2013.



Dana L. Christensen
Dana L. Christensen, Chief Judge
United States District Court